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January 29, 2009

Via Hand Delivery

Michael Elabarger
Planner - Land Use Review
Loudoun County Department of Planning
One Harrison Street, Third Floor
Leesburg, VA 20176

Re: Belmont Glen Village
ZCPA 2009-0007 & ZMOD 2009-0004

Dear Mr. Elabarger:

This letter addresses and provides you with a written response to the referral agency comments in the above referenced application. For your convenience, each of the staff comments are stated below and the applicant's responses follow in bold italics.

**LOUDOUN COUNTY DEPARTMENT OF PLANNING – COMMUNITY PLANNING
(KELLY WILLIAMS, 11/23/2009)**

The Applicant has responded to Community Planning's first referral dated October 5, 2009 by providing a response letter as well as a revised Concept Development Plan, Proffers and a Statement of Justification. It appears that all comprehensive planning issues related to the application have been adequately resolved through the revised site design and proffer commitments. As such, Community Planning staff recommends approval of the proposed rezoning.

Applicant Response: *The comment is noted, but does not require a response.*

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ATTORNEYS AT LAW

**LOUDOUN COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT – ZONING
ADMINISTRATION (VAL THOMAS, 12/2/2009)**

1. **Modification of required buffer adjacent to residential development, R-8 (Single-Family Residential) Zoning District, § 3-509(C), Additional Development Standards – Minimum Buffer.** A permanent common open space buffer of fifty (50) feet in depth with a Category 2 Buffer Yard (Section 5-1414(B)) shall be provided where a development adjoins an existing or planned residential district, land bay or development which has a minimum allowable lot size of 6,000 square feet or greater. Such buffer area may be included in open space calculations.

Section 4-109(C) Site Planning, External Relationships – Uses adjacent to single-family, agricultural, or residential districts or land bays allowing residential uses. Where residential uses in a PD-H district adjoin a single-family residential, agricultural, or residential district or land bay allowing residential uses, or a commercially zoned development approved subject to proffers prior to adoption of this ordinance, the development shall provide for either:

- (1) Single family dwellings on minimum lots of (20,000) square feet or greater, exclusive of major floodplain, along such perimeter; or,
- (2) A permanent open space buffer along such perimeter at least fifty (50) feet in width, landscaped with a Type 2 Buffer Yard.

Section 4-110(I) Site Planning – Internal Relationships – Uses adjacent to single-family residential, or agricultural and residential districts or land bays allowing residential uses. Where residential uses in a PD-H district adjoin a single-family residential, agricultural, residential district or land bay allowing residential uses, the development shall provide for either:

- (1) Single family dwellings on minimum lots of (20,000) square feet or greater, exclusive of major floodplain, along such perimeter, or;
- (2) A permanent open space buffer along such perimeter at least fifty (50) feet in width, landscaped with a Type 2 Buffer Yard.

Proposed Modification – Along the boundary that adjoins the Goose Creek Preserve property to the northeast, the applicant proposes to provide:

- A minimum 25-foot permanent open space buffer along lot 37, a lot containing a minimum of 10,000 square feet;
- A minimum 30-foot permanent open space buffer along lots 48-51, lots containing a minimum of 9,000 square feet;
- A 25-foot rear yard along lots 38 and 39, lots containing a minimum of 7,500 square feet;

Applicant's Justification – The Applicant notes that the adjacent Goose Creek Preserve property is zoned PD-H4, at a higher density than Belmont Glen and has no required minimum lot size. Both properties propose single family detached units along the common property boundary and Goose Creek Preserve is providing an open space buffer along the common boundary with Belmont Glen Village. This open space buffer is wooded with mature stand of trees.

Staff Response – The public purpose of the 50-foot buffer requirement is to provide a visual separation between two zoning districts or residential land bays with potentially dissimilar lot sizes and to provide protection of the development from potentially adverse influences. While Staff does not believe that the development provides for an innovative design, the open space buffer provided on the adjacent development, the minimum required rear yard setback and reduced open space buffer on these few lots serves the required visual separation of the Ordinance. Further, the development is proposed to locate in close proximity to the Goose Creek Preserve property thus maximizing the open space buffer along Goose Creek (67% of the site will be maintained as open space). Staff can support this modification request.

Applicant Response: *Comment noted.*

However, the modification of Section 4-110(I) do not apply since the modification request relates only to external relationship of the proposed development to the adjacent development and not between internal land bays. Please remove this section from Checklist Item P as well as from Sheet 7 of the ZCPA Plans. Further, staff asks that the Applicant include proposed lots 17, 18 and 19 in this modification request as the adjacent proposed private road do not meet the requirement of the ordinance, which requires a permanent open space buffer 50 feet wide, landscaped with a Type 2 Buffer Yard.

Applicant Response: *The modification of Section 4-110 (I) has been deleted, since the internal land bays have been eliminated. Lots 17, 18 and 19 have been included in the modification as recommended by staff.*

2. **Modification of ADU Requirements to permit cash in lieu of units, § 7-103(A)(1) Single Family Detached and Single Family Attached Units.** For active rezoning applications that have not yet complied with Section 6-1204(D)(1) of this Ordinance as of December 16, 2003, and for rezoning, special exception, site plan and preliminary subdivision applications officially accepted after December 16, 2003 which request approval of single family detached dwelling units or single family attached dwelling units, the proposed density shall reflect an increase of twenty percent (20%), including the required number of affordable dwelling units, unless such figure is modified pursuant to the provisions of Section 7-108 or the applicant provides cash in lieu of providing the single family detached units pursuant to Section 7-108(A)(3).

Proposed Modification - Request modification to permit cash buyout in lieu of the required Affordable Dwelling Units (ADUs), pursuant to Section 7-108(A)(3), which states as follows:

... any request for rezoning, special exception, or preliminary subdivision (by right) which contains only single family detached units, a modification may be requested to provide cash in lieu of the units. Such cash must be paid prior to the first zoning permit. In the event that an applicant requests a modification to make such cash payment, the following criteria shall apply:

- (a) The cash formula of Section 7-108(E) shall apply.
- (b) The decision to pay cash in lieu of providing the units has to be made at the time of approval of rezoning, special exception or preliminary subdivision (by right), as applicable.
- (c) No bonus density is to be granted for a development, when an applicant opts to provide cash in lieu of units.
- (d) The district regulations of Article VII shall not apply to a development when an applicant opts to provide cash in lieu of units.

Applicant's Justification – The Applicant notes that the proposed application is an amendment to ZMAP 2002-0007 and adopted as ZMAP 2004-0006 as part of a court settlement of the original rezoning application. The proposed application is seeking to retain the proffers and applicable modifications that were adopted under ZMAP 2004-0006, and this modification is identical to the modification approved under ZMAP 2004-0006.

Staff comment- The original application ZMAP 2002-0007 fully complied with all Zoning Ordinance provisions, including Article VII governing affordable dwelling unit developments and included a cash buy-out of the affordable dwelling units for 6.25% of the total units payable to the County prior to issuance of the first zoning permit on the property. ZMAP 2004-0006 was adopted with the same modification.

Staff comment- The original application ZMAP 2002-0007 fully complied with all Zoning Ordinance provisions, including Article VII governing affordable dwelling unit developments and included a cash buy-out of the affordable dwelling units for 6.25% of the total units payable to the County prior to issuance of the first zoning permit on the property. ZMAP 2004-0006 was adopted with the same modification.

The cash buy-out included in the approved proffers meets the cash formula of Section 7-108(E) in effect on December 1, 2003. The original modification was granted as part of the rezoning application constituting all single-family detached dwelling units. No bonus density was approved for this application and the Article VII district regulations were not used. It should also be noted that the Modification Subcommittee of the Affordable Dwelling Unit Advisory Board (ADUAB) as well as the full ADUAB recommended approval at the time of the rezoning, as did staff. Staff therefore supports this modification.

Applicant Response: *The comment is noted, but does not require a response.*

3. On the Concept Development Plan (Sheet 3), the Applicant depicts a proposed minimum side yard of six feet, while Section 3-506(C)(1)(b) requires a minimum side yards of 8 feet, or, 16 feet if only one side yard is provided, with a minimum distance of 16 feet between buildings. Please correct this, or submit a modification request to reduce the side yard to six feet.

Applicant Response: *The application now includes a modification request for six-foot side yards.*

4. On Sheet 7 ("Typical Sections, Plan Enlargement and Modifications"), the depiction of the 6'/25' and rear/side setback is confusing as it appears to imply 6 feet for rear setback and 25 feet for side setback. Please clarify.

Applicant Response: *The typical section drawing has been revised to clarify the 6' side yard setback and the 25' rear yard setback.*

5. The "Typical Single Family Detached lot" illustrative depicted on Sheet 7 incorrectly depicts side yards of six feet. Please correct this.

Applicant Response: *The side yard dimension is being modified to depict six feet.*

6. Proffer comments (from Susan Glass, Proffer Manager)

- Proffer I.2, Public Road Access: Belmont Glen Drive is not shown on the CDP. Does the Applicant intend to specify Belmont Glen Place?

Applicant Response: *The proffer has been revised to refer to Belmont Glen Place.*

- Proffer I.3, Construction Traffic Access: Repeat of above comment; does the Applicant intend to specify Belmont Glen Place rather than Belmont Glen Drive?

Applicant Response: *The proffer has been revised to refer to Belmont Glen Place.*

- Old Proffer V.11, Frontloaded Cash Contributions for Regional Road Improvements: I confirmed that the County previously received payment of frontloaded cash contribution.

Applicant Response: *The comment is noted, but does not require a response.*

- Proffer VI.12, Dedication of Open Space/Park Land Along Goose Creek: This proffer provides that 61.33 acres shall be dedicated to the county and that the land shall be maintained in its natural condition. However, the dedication is subject to the Applicant's right to install and construct public utility and stormwater conveyance improvements on the property, which contradicts the proffer commitment to leave the property in its natural state.

Applicant Response: *The intent of the proffer is to preserve the area in a natural state, except as needed to construct infrastructure necessary for the community. In the original rezoning application, this land area first was proposed as a setback from Goose Creek. The County requested the land area to be dedicated, which the applicant agreed to do provided the applicant retained the ability to construct the infrastructure needed for the community. The terms of the dedication do not change with this zoning amendment application.*

- Proffer VI.16, Trails: Second paragraph, the third line has a typo; the sentence should read: "This trail shall be constructed or bonded for construction prior to the issuance of the..." rather than "o the".

Applicant Response: *The typographical error has been corrected.*

- Proffer VI.17, Archeological Site: I believe the reference to proffer 13 above in the second line should be revised to proffer VI.12.

Applicant Response: *The proffer reference has been corrected.*

- Proffer VI.17, Archeological Site: We encountered some issues with preventing disturbance of this site during CPAP review. I have asked Mike Clem, B&D Archeologist, to review this proffer.

Applicant Response: *Comment noted. We have not received comments from Mike Clem as of this date.*

- Proffer VI.17, Archeological Site: On sheet 3 of the CDP, it appears that the line indicating Future Public Passive Park Open Space Demarcation Line bisects the archeological site. I believe the intent of proffer IV.17 is for the site to be included in the property conveyed to the County. Please review and revise the CDP sheet(s) accordingly.

Applicant Response: *The archeological site is being preserved and will not be disturbed by virtue of being located in permanent open space either dedicated to the County as part of the Future Public Passive Park or by being within the HOA-owned permanent open space area. Proffer 17 has been revised to state explicitly that the archeological will not be disturbed.*

- Proffer VI.18, Goose Creek Reservoir Protection Buffer and Scenic Easement: The Applicant proposes establishing a 300-foot easement from the stream bank of the active channel of Goose Creek, which shall remain undisturbed, except for those areas that shall be dedicated in fee simple to the County. Why is the Applicant proposing this exception for the future County property when proffer VI.12 provides that the property shall remain in its natural state?

Applicant Response: *The exception for land to be dedicated to the County has been deleted from the proffer.*

- Proffer VI.19: Tree Conservation Plan: I believe the reference to proffer 16 above in the last sentence should be revised to proffer VI.15 (Proffer VI.16 pertains to trails rather than tree save areas).

Applicant Response: *The proffer reference has been corrected.*

- Proffer VII.20, Homeowner's Association: I believe the County's General Services division has assumed responsibility for maintaining stormwater management facilities.

Applicant Response: *The proffer has been revised according to staff's recommendation.*

- Proffer VII.23, Stormwater Management Ponds: The previous ZMAP application assumed stormwater management would be provided by LID facilities scattered around the development. I believe the approved CPAP has only the one stormwater management pond which is adjacent to the future County park site. However, possible LID is still shown on the CDP. Will LID be used?

Applicant Response: *This application is retaining the possibility for LID to be used by identifying potential LID sites within the project, but is not requiring that LID be used. The determination for final stormwater management design will occur during the subdivision and construction plan and profile review stages.*

- Proffer VII.25, Property Owner Education and Notification: I believe the reference to proffer 24 should be Proffer VII.23 (proffer 24 is for utility routing, not stormwater management ponds).

Applicant Response: *The proffer reference has been corrected.*

- Proffer IX.27, Affordable Dwelling Units: Will the County receive a lump sum payment of \$449,756.67? Or is the Applicant intending to make a per unit contribution that will total this amount? Please revise this proffer to clarify how the County will receive the payment.

Applicant Response: *The proffer has been revised to clarify that the contribution will be provided in a lump sum payment, as required by the ADU ordinance.*

LOUDOUN COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT – ZONING DIVISION (LARR KELLY, 12/1/2009)

1. In regard to the header, it is not clear what the application's number is. As written, it is "ZCPA 2009-000". I believe the correct number is ZCPA 2009-0007. I suggest that the correct number be identified.

Applicant Response: *The application number has been corrected.*

2. In regard to the preamble, in the seventh line thereof, I suggest that a parenthetical, "(ZCPA 2009-0007)" be inserted after the word "Amendment".

Applicant Response: *The proffer has been revised as recommended by staff.*

3. In further regard to the preamble, in the thirteenth line thereof, I suggest that the correct application number be referenced instead of "ZCPA 2009-000".

Applicant Response: *The application number has been corrected.*

4. In regard to proffer 2., in the second line thereof, there is a reference to "Belmont Glen Drive". However, this road is not labeled on the CDP. I suggest that this road be identified on the CDP.

Applicant Response: *The proffer has been revised to refer to Belmont Glen Place, which is identified on the CDP.*

5. In further regard to proffer 2., in the thirteenth line thereof, I note that the proffer uses the word "Adjacent" while the CDP uses the abbreviation "Adj". I suggest that a consistent term be used.

Applicant Response: *The CDP has been revised to use the word “Adjacent.”*

6. In regard to proffer 6., concerning the fire and rescue contributions, I note that the contributions are listed as being in 2004 dollars. I further note that the County’s adopted policies requests that fire and rescue contributions use a base year of 1988.

Applicant Response: *The proffers have been revised to use a base year of 1988.*

7. In regard to proffer 12., I note that the applicant has indicated the intent to dedicate 61.33 acres of land along the Goose Creek “as shown on the CDP”. The applicant further refers to “the park dedication area” and the “park dedication”. However, there is nothing on the CDP which clearly identifies the land to be dedicated. I suggest that the CDP be changed to show the area to be dedicated in a cross-hatch and that a term of art for the dedication area be created, in order to avoid any confusion. I also suggest that the access to the park be more clearly identified.

Applicant Response: *The CDP has been revised to identify access to the park at the locations between lots 64 and 65 and between lots 184 and 185. The proffers have been revised to reflect the terminology used on the CDP for the park area, which is “Future Public Passive Park.” The line denoting the park dedication area and the HOA open space area is shown and labeled on the CDP.*

8. In regard to proffer 13, in the first line thereof, I suggest that it be clarified as to whom the “open space/conservation easement” is to be dedicated. If it is to the County, then I suggest that the phrase “to the County” be inserted following the word “dedicated”.

Applicant Response: *The proffer has been revised as recommended by staff.*

9. In further regard to proffer 13., I note that the applicant refers to the open space land located between the “park dedication line” and the “300-foot Goose Creek Reservoir Protection Buffer and Scenic Easement”. I presume that the “park dedication line” is the same as the “Future Public Passive Park Open Space Dedication Line” shown on the CDP, but I suggest that this be clarified. I also presume that the “300-foot Reservoir Protection Buffer and Scenic Easement” shown on the CDP is what the applicant intended to reference, but I suggest that the inconsistency between the two phrases be eliminated.

Applicant Response: *The proffer has been revised to clarify that the line delineates the boundary between the park dedication area and the HOA-owned open space area. The applicant has determined that the property does not fall within the 300-foot Goose Creek Reservoir Protection Buffer and has removed that label from the CDP.*

10. In further regard to proffer 13., in comparing it to proffer 18., I am uncertain as to the intended difference between the “Open Space/Conservation Easement” provided in proffer 13, and the “Scenic Easement” provided in proffer 18. Both easements apply to the same portion of the Property and it appears that both are to be dedicated to the County. I am not certain what is intended by the two different easements and I suggest that this be clarified.

Applicant Response: *The easements referred to in proffer 13 is a permanent open space and conservation easement to be placed on the open space areas to be owned and maintained by the HOA. As previously stated, the applicant has determined that the property is not located within the 300-foot reservoir protection buffer, and, therefore, references to that buffer have been eliminated from proffer 18. What remains in proffer 18 is the original 300-foot Goose Creek Scenic Easement, provided pursuant to Goose Creek Scenic River protection policies. Technically, a separate 300-foot scenic easement is not required, since all of the land falling within this area is located either in the park dedication area covered under proffer 12 or in the HOA-owned open space easement area covered under proffer 13. If determined to be acceptable to staff and to the Goose Creek Scenic River Advisory Committee, the applicant could delete proffer 18 due to the protections provided to this area by proffers 12 and 13.*

11. In regard to proffer 16., in the fifth line thereof, there is a reference to “proffer 12”. Given the change in proffer numbers, I believe that this reference should now be to “proffer 11”. I suggest that this be so changed.

Applicant Response: *The proffer reference has been corrected.*

12. In further regard to proffer 16., in the third line of the second paragraph, I suggest that the phrase “issuance o the” be changed to “issuance of the”.

Applicant Response: *The typographical error has been corrected.*

13. In regard to proffer 17., in the first line thereof, I suggest that the phrase “as ‘Revised Archeology Site (per 10/08 Addendum by Thunderbird)’” be inserted following the phrase “shown on the CDP”.

Applicant Response: *The proffer has been revised as recommended by staff.*

14. In further regard to proffer 17., in the second line thereof, I note that the applicant has referenced the “open space dedication area established under proffer 13 above”. However, it is not clear if the intent was to reference the park area to be dedicated to the County pursuant to proffer 12, or to reference the open space/conservation easement area referenced in proffer 13. I suggest that this be clarified.

Applicant Response: *Proffer 17 has been clarified to refer to both proffers 12 and 13, since the archeological site is located in both the park dedication area and the HOA permanent open space area.*

15. In further regard to proffer 17., I note that the proposed storm water management pond is very close to the archeology site. I suggest that a minimum non-disturbance distance be established between the pond and the limits of the archeology site.

Applicant Response: *The limits of the archeological site as shown on the CDP establish the non-disturbance area. Proffer 17 has been revised to state explicitly that no land disturbance will occur within the limits shown on the CDP.*

16. In regard to proffer 18., I again question the difference between the scenic easement proposed by this proffer and the open space/conservation easement proposed in proffer 13. However, if this proffer remains, then I suggest, in the second line thereof, that the phrase "as identified on the CDP" be changed to "identified on the CDP as '300' Reservoir Protection Buffer and Scenic Easement".

Applicant Response: *The easements referred to in proffer 13 is a permanent open space and conservation easement to be placed on the open space areas to be owned and maintained by the HOA. As previously stated, the applicant has determined that the property is not located within the 300-foot reservoir protection buffer, and, therefore, references to that buffer have been eliminated from proffer 18. What remains in proffer 18 is the original 300-foot Goose Creek Scenic Easement, provided pursuant to Goose Creek Scenic River protection policies. Technically, a separate 300-foot scenic easement is not required, since all of the land falling within this area is located either in the park dedication area covered under proffer 12 or in the HOA-owned open space easement area covered under proffer 13. If determined to be acceptable to staff and to the Goose Creek Scenic River Advisory Committee, the applicant could delete proffer 18 due to the protections provided to this area by proffers 12 and 13.*

17. In regard to proffer 19., in the first line thereof, I suggest that the phrase "portions of the" be inserted prior to the phrase "HOA-owned open space areas".

Applicant Response: *The proffer has been revised as recommended by staff.*

18. In further regard to proffer 19., in the last line thereof, there is a reference to "proffer 16 above". I suggest that this be changed to refer to proffer 15.

Applicant Response: *The proffer reference has been corrected.*

19. In regard to proffer 27., in the fourth line thereof, there is a reference to cash contributions being “calculated in terms of current dollars”. I suggest that this be changed to refer to 2004 as the base year.

Applicant Response: *The proffer has been revised to specify a base year for cash contribution proffers.*

20. In regard to proffer 28., in the last line thereof, I note that the applicant is proffering conformance with Sheet 7, which is not a proffered sheet. I suggest that this sheet be proffered, and noted amongst the sheets mentioned in proffer 1.

Applicant Response: *Sheet 7 has been added as a proffered sheet as recommended by staff.*

21. In regard to proffer 31., in the second line thereof, the applicant refers to the “Goose Creek open space buffer area”. In proffer 13, the applicant referenced an “open space/conservation easement” and in proffer 18 the applicant referenced a “Reservoir Protection Buffer and Scenic Easement”, but heretofore has not referred to an “open space buffer”. I suggest that the applicant’s intent be clarified. In addition, in the next to last line of the proffer, I suggest that the phrase “any of” be inserted prior to the phrase “Lots 174-184”.

Applicant Response: *Proffer 31 has been deleted, since the plantings referred to in this proffer are redundant with the Reforestation Plan called for in the former proffer 32 (now proffer 31).*

22. In regard to proffer 32., in the first line thereof, the applicant now references “the HOA-owned open space area along Goose Creek”. It is not clear whether this is intended to be the same as the “Goose Creek open space buffer area” referenced in proffer 31. I suggest that the referenced area be clarified. Additionally, in the thirteenth lines thereof, I suggest that phrase “any of” be inserted prior to the phrase “lots 168 through 170”.

Applicant Response: *Proffer 31 (formerly proffer 32) has been revised to refer the "HOA-owned open space," since that term is consistent with the label on the CDP. It also refers to proffer 13 to further clarify the open space where the reforestation will occur. The additional wording has been revised as recommended by staff.*

23. In regard to proffer 35., in the last line thereof, I suggest that the word “elsewhere” be inserted prior to the phrase “within Loudoun County”.

Applicant Response: *Proffer 34 (formerly proffer 35) has been revised as recommended by staff.*

24. These proffers will need to be signed by all landowners, and be notarized, prior to the public hearing on this application before the Board of Supervisors.

Applicant Response: *The comment is noted, but does not require a response.*

LOUDOUNCOUNTY DEPARTMENT OF BUILDING & DEVELOPMENT (WILL HIMEL, 11/19/2009)

1. In Proffer Statement I(1), as Sheet 7 depicts zoning ordinance modifications and diagrams associated with the proposed development, it is recommended that Sheet 7 also be proffered. As it relates to Sheet 7, Staff notes the building height note is inconsistent with Proffer X. This note should be revised to be consistent with Proffer X.

Applicant Response: *Sheet 7 has been added as a proffered sheet as recommended by staff. The building height note on Sheet 7 has been revised to be consistent with Proffer X.*

2. Throughout the Proffer Statement, Belmont Glen is referenced as 'Drive'. However, according to County records this should be Belmont Glen 'Place'. Please replace 'Drive' with 'Place' throughout the Proffer Statement.

Applicant Response: *The references to Belmont Glen Drive have been corrected as recommended by staff.*

3. In Proffer Statement I(2), referencing public road access, please revise the word Adjacent with Adj. to match the actual language used on Sheet 4 of the Concept Development Plan.

Applicant Response: *The wording used on the CDP has been revised to match the language used in Proffer I (2).*

4. Regarding Proffer V(9), referencing sidewalks, on Sheet 3 please add a label and leader arrow to indicate the sidewalks or add an appropriate notation to the legend depicting these, or change the referenced sheet from Sheet 3 to Sheet 4 in the Proffer Statement.

Applicant Response: *The proffer has been revised to refer to Sheet 4 as recommended by staff.*

5. Regarding Proffer Statement VI(12), referencing dedication of open space/park land, how wide will the public access easement be between Lots 184 & 185? What materials will be used in its construction? As this is a proposed public access easement it should be depicted on the Concept Development Plan and its width and construction materials described.

Applicant Response: *The CDP has been revised to provide the information requested for the access being provided to the future park between lots 184 and 185.*

6. Regarding Proffer Statement VI(16), referencing trails, will the 5' wide trail between Lots 121/122 & 162/163 be located within an easement, on open space, or on these individual lots? Staff recommends the trail be located off of the individual lots and on an open space parcel.

Applicant Response: *These trails will be located on open space parcels as recommended by staff.*

7. Regarding Proffer Statement VI(17), referencing the archaeological site, this site could not be discerned on the concept development plan. Staff recommends depicting the site on the Concept Development Plan and adding to the Proffer Statement this sheet number.

Applicant Response: *The archaeological site is depicted on the CDP. The proffer has been revised to refer to the sheet number as recommended by staff.*

8. In Proffer Statement VI(19), referencing tree conservation, it is recommended that language be added to state that the approved Tree Conservation Plan be posted or otherwise made available on site as reference for construction personnel.

Applicant Response: *The proffer has been revised as recommended by staff.*

9. Regarding Proffer Statement VIII(22), referencing storm drainage, VDOT recently revised its regulations concerning storm water discharge. Please ensure any proffers conform with these new regulations.

Applicant Response: *The applicant's engineer has determined that proffer VIII (22) is consistent with VDOT regulations concerning storm water discharge.*

10. In Proffer Statement VIII(26), please capitalize the word "proffer" on line 12.

Applicant Response: *The proffer has been revised as recommended by staff.*

11. Regarding parking, how many parking spaces per unit are being proposed? How and where will these spaces be provided? The proffers and concept development plan do not appear to address this.

Applicant Response: *The CDP has been revised to specify the number and location of parking spaces allocated to each dwelling unit in a note on Sheet 3.*

**LOUDOUN COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT –
ENVIRONMENTAL REVIEW (TODD TAYLOR, 12/8/2009)**

Regarding stream buffers

1. Facilities Standards Manual (FSM) Section 5.320.D.7.a prohibits any land disturbing activity within 300 feet from the existing or planned shoreline of the impoundment area of any public drinking water reservoir. As such, please remove the stormwater management pond from the 300-foot Reservoir Protection Buffer (see Attachment A).

Applicant Response: *The applicant has consulted with the City of Fairfax to determine the limits of the Goose Creek Reservoir. They informed us that the southern limits are 200 feet south of where Sycolin Road crosses Goose Creek, and Belmont Glen Village is not located within 300 feet of that location. Additionally, Belmont Glen Village is located approximately 450 feet north of the dam embankment for the Beaverdam Reservoir. Therefore, Section 5.320.D.7.a of the FSM does not apply to the application property, since the property is not located within 300 feet from the shoreline of either the Beaverdam Reservoir or the Goose Creek Reservoir. Furthermore, the County already has approved a stormwater management pond in the location shown on the concept plan under CPAP 2006-0098. Section 5.320. D.7.b, does apply to the property, however, since it is located within the five-mile radius upstream of the Goose Creek Reservoir.*

2. Depict the full River and Stream Corridor 50-foot Management Buffer on sheets 2 through 6. The 50-foot management buffer surrounds the floodplain and adjacent steep slopes (25 percent or greater). The 100-foot threshold referenced in River and Stream Corridor Resources Policy 2.c is the maximum distance adjacent steep slopes can be from the floodplain. The threshold limits the overall buffer to 150 feet from the floodplain when there are adjacent steep slopes. Please correct the 50-foot Management Buffer on the specified plan sheets. [Revised General Plan (RGP) River and Stream Corridor Resources Policy 2]

Applicant Response: *The 50-foot management buffer has been corrected on Sheets 2 through 6 as recommended by staff.*

3. Once the River and Stream Corridor Buffer is depicted correctly, as described above, lots 170 and 171 are located within the buffer. To minimize impacts to the riparian corridor, staff recommends removing the lots from the buffer. The encroachment would result in impacts to existing forest cover and steep slopes adjacent to a jurisdictional stream. As stated on Page 5-32 of the RGP, “riparian forests along streams provide the greatest single protection of water quality by filtering pollutants from stormwater runoff, decreasing stream bank erosion, and maintaining the physical, chemical, and biological condition of the stream environment”. [RGP Policy 18]

Applicant Response: *Lots 170 and 171 have been removed from the management buffer, as recommended by staff and as depicted on Sheets 4 and 7 of the CDP.*

Regarding steep slopes

4. The applicant's responses acknowledge that the layout will require a con-span crossing to access lots 19-39, and references a steep slope/road crossing enlargement on Sheet 7. Since Sheet 7 is not a proffered sheet, as indicated by Proffer I.1, please add a label/note to Sheet 3 indicating that the road providing access to lots 19-39 shall utilize a con-span crossing to avoid impacting very steep slopes. [Revised 1993 Loudoun County Zoning Ordinance (Revised 1993 LCZO) Section 5-1508(D)(1)]

Applicant Response: *Sheet 7 has been added as a proffered sheet, but the note has been added to Sheet 3 of the plan as recommended by staff.*

5. As previously stated, land disturbance associated with residential lots is not a permitted use on very steep slopes, per Section 5-1508(D)(1)(c) of the Revised 1993 LCZO. As currently depicted, lots 19, 20, 169, 170, and 171 do not have sufficient buildable area without impacting very steep slopes. Please remove or revise lots to completely avoid land disturbance to very steep slopes.

Applicant Response: *Sheet 7, which is now a proffered sheet, provides enlargement drawings of these lots, which demonstrate that the naturally occurring very steep slope areas will not be disturbed. Lots 169, 170 and 171 are impacted by man-made steep slopes associated with an old roadbed, which are exempt from the steep slope requirements. Lots 19 and 20 clearly depict the limits of clearing and grading and the building area for the dwelling units is not located within those limits and will satisfy the requirements of Section 5-1508(D) (1) (b) and (c) of the Zoning Ordinance.*

6. With this submission, Proffer 19 (Goose Creek Reservoir Protection Buffer and Scenic Easement) and Proffer 23 (Riparian Planting Plan) associated with rezoning ZMAP-2004-0006 have been deleted and replaced with Proffer 32 (Reforestation). The current reforestation proffer identifies two areas for reforestation farther uphill, both outside of the 300-foot Reservoir Protection Buffer. Staff finds that the current proffer provides less environmental benefit than the previous proffers. In addition, staff does not understand why the commitment to stabilize the drainages near the confluence with Goose Creek has been deleted. To provide better protection of the Goose Creek Reservoir and enhanced riparian function, staff recommends that the current proffer be replaced with a general commitment to reforest and stabilize areas adjacent to the Goose Creek Reservoir. The commitment should focus on widening the vegetative buffer along the reservoir and stabilizing drainages on the property that directly flow into the reservoir within the 300-foot Reservoir Protection buffer, as allowed by the U.S. Army Corps of Engineers and Virginia Department of Environmental Quality. Staff recommends that the reforestation effort result in a vegetative buffer along the reservoir that is a minimum of 150 feet in width. In some locations, the current buffer is as narrow as 50 to 75 feet. Reforestation should not include land area that corresponds with the archeological site.

Staff recommends that the commitment specify the following: 1) the applicant shall work with the County Urban Forester and the Chief Planner of the Department of Parks and Recreation and Community Services on the development of the reforestation/stabilization plan; 2) the reforestation/stabilization plan shall be submitted to the County Urban Forester and the Chief Planner of the Department of Parks and Recreation and Community Services for review and approval prior to the approval of the first construction plans and profiles; 3) the applicant shall post a bond with the County in an amount sufficient to cover the cost of implementing the reforestation/stabilization plan as part of the construction plans and profiles application; 4) plant material shall consist of 3-gallon containerized native trees, unless County staff determines smaller material (live stakes, bare root seedlings, etc.) is appropriate; 5) the reforestation/stabilization shall be implemented prior to issuance of the first certificate of occupancy; 6) the applicant shall ensure a minimum of 80 percent of the initial planting is determined to be established after two growing seasons; 7) an annual inspection shall be conducted by the applicant, the County Urban Forester, and the Chief Planner of the Department of Parks and Recreation and Community Services to verify establishment; and 8) if the 80 percent establishment isn't achieved after the second growing season, a onetime planting to bring the project to full stocking shall be conducted by the applicant.

Applicant Response: *This project has a history associated with the previous stream channel planting proffer from ZMAP 2004-0006. DEQ did have issues with disturbing the area to be replanted. Additionally, during the review of this application, Parks and Recreation made it clear that they were not interested in having new plantings placed within the park dedication area. Therefore, the applicant is proposing a planting plan using the same number of planting materials as proffered under ZMAP 2004-0006 in the HOA-owned permanent open space area along Goose Creek in the locations shown on Sheet A of A. The applicant has revised proffer 19 to include the commitments requested by staff with two exceptions. With regard to recommendation #4, the applicant is proffering a specific planting plan specified on Sheet A of A, which is more specific than the staff recommendation. With regard to recommendation # 5, the applicant has proffered to implement the plan by time of the 15th occupancy permit, since the applicant may be developing the first 14 lots under the approved rezoning.*

Other

7. The applicant indicated during the October 8, 2009 meeting, that a wetland permit has already be issued for the subject property and that mitigation bank credits have already been purchased, outside of Loudoun County. The current permit does not meet Policy 23 on Page 5-11 of the RGP which states that "the County will support the federal goal of no net loss to wetlands in the County." Please provide a copy of the wetland permit and associated impacts map for staff to review.

Applicant Response: *In accordance with wetland permits issued by the Virginia Department of Environmental Quality (DEQ) and the U.S. Army Corps of Engineers (COE) on July 8, 2009, the applicant is required to purchase 0.51 wetland credits from the Cedar Run Wetlands Bank in Prince William County, Virginia. This purchase satisfies compensatory mitigation requirements for impacts authorized to 0.01 acre of forested wetland, 0.42 acre of emergent wetland and 0.06 acre of isolated emergent wetland and 0.02 acre of open water. Additionally, all of the mitigation for stream impacts will be provided on-site through the preservation of streams and stream buffers.*

Although the purchase of credits in the Cedar Run Wetlands Bank is a specific requirement of the DEQ and COE wetland permits, neither the DEQ nor COE have any involvement in the actual purchase of credits between the permitted and the wetland bank sponsor. Therefore, even if the respective permits were modified to transfer the purchase requirement to another bank, there is no requirement for the wetland bank sponsor to refund the money already spent by the permitted in securing the mitigation credits as currently required.

Wetland and stream impacts associated with the rezoning layout do not exactly match the wetland and stream impacts associated with the authorized DEQ and COE wetland permits. Further, it is anticipated that there will be reductions in impacts in certain locations throughout the property and an increase in impacts in others. This change in impact locations will require a modification of the DEQ and COE wetland permits. In such situations, it is commonplace for the DEQ and COE to credit wetland mitigation already purchased towards any new mitigation requirement for a particular project.

The applicant will use the previously purchased 0.51 wetland credits to offset any revised wetland mitigation requirement, but will purchase any additionally required mitigation credits resulting from the revised site layout from an approved wetland bank located within Loudoun County, if necessary and if approved by the DEQ and COE.

A copy of the combined DEQ/COE permit as well as a copy of the authorized wetland impact map is also attached for your reference.

8. Staff commends the applicant for including Proffer 34 (Building Standards), which requires all dwelling units to be constructed in conformance with the National Association of Homebuilders (NAHB) National Green Building Program Bronze Level standards. However, staff has concerns regarding the enforceability of the proffer. Staff recommends that the proffer include commitments to a pre-preliminary subdivision/construction plan meeting with county staff to review anticipated performance points; a provision to allow county staff to view verification report submitted to NAHB Research Center; and a surety that the County will release when certification is awarded, or once County staff verifies independently that the green building features have been completed. Said surety would need to be distinct from performance bonds required by the Facilities Standards Manual.

Applicant Response: *The applicant has agreed to a proffer to build according to a green building standard and certification sponsored by a large national organization, the NAHB. The intent of the proffer is for that organization to monitor for compliance with the standards of certification of that organization. The applicant can agree to provide the County with any information submitted to that organization for purposes of receiving certification, but not to having the County provide an independent verification of compliance or a surety guaranteeing compliance. The County enforcement of this proffer will be receiving evidence of the NAHB certification.*

LOUDOUN COUNTY OFFICE OF TRANSPORTATION SERVICES (LOU MOSURAK, 11/19/2009)

1. **Initial Staff Comment:** Further coordination with VDOT would be appropriate concerning VDOT Secondary Street Acceptance Requirements (SSAR) given the previous approvals and proffer contributions for this site. For reference, illustrations of both the approved and proposed road network on-site are provided as *Attachments 3 and 4*, respectively [*in the first OTS referral*]. It is noted that the development provides interparcel access to adjacent developments on both the north and south via approved or existing public streets and does not propose a new entrance onto Route 659.

Applicant's Response: *The applicant has met with VDOT along with OTS staff to coordinate VDOT review of this project.*

Issue Status: At that above-referenced October 15, 2009 meeting, VDOT noted that the applications were subject to the new (2009) Secondary Street Acceptance Requirements (SSAR), and the Applicant stated that the road network, as proposed, will meet these requirements both in terms of connectivity requirements and appropriate typical sections. The proposed typical road sections shown on the plan set (29-foot or 36-foot curb and gutter section, with 5-foot sidewalks on both sides) appear to comply with the SSAR requirements. OTS defers to VDOT for a final determination regarding SSAR compliance. Issue resolved pending VDOT confirmation.

Applicant Response: *The SSAR compliance information has been provided on Sheet 4 of the CDP.*

2. **Initial Staff Comment:** Further coordination with VDOT would be appropriate concerning the Chapter 527 traffic impact analysis regulations given the previous approvals and proffer contributions for this site.

Applicant's Response: *The applicant has met with VDOT along with OTS staff to coordinate VDOT review of this project. A Chapter 527 study is not required, and the applicant has submitted a letter to VDOT, as requested, stating that there are no changes to the traffic analysis as a result of the proposed revisions to the site layout and that the traffic analysis submitted for the approved rezoning remains valid.*

Issue Status: The referenced letter from the Applicant's consultant is provided as **Attachment 1**. OTS staff concurs with the letter's conclusion that the traffic study prepared in 2002 for the approved Belmont Glen—Rouse Property rezoning remains valid, and that a new study is not necessary. The letter is consistent with the discussion between OTS and VDOT staffs and the Applicant's representative at the above-referenced October 15, 2009 meeting. Issue resolved.

Applicant Response: *The comment is noted, but does not require a response.*

3. **Initial Staff Comment:** All previous transportation proffer obligations associated with ZMAP 2004-0006 (e.g., right-of-way dedication along Route 659, Route 659 multi-use trail construction along the site frontage, development phasing, etc) should be carried forward with these applications.

Applicant's Response: *These proffer obligations are carried forward in the draft proffer statement. However, the cash contributions for regional road purposes have already been fulfilled.*

Issue Status: OTS staff has reviewed the draft proffer statement and notes that all unfulfilled transportation-related proffers from the previously-approved rezoning are being carried forward with the current application. Issue resolved.

Applicant Response: *The comment is noted, but does not require a response.*

Conclusion

Subject to VDOT confirmation that the proposed public streets are consistent with the 2009 Secondary Street Acceptance Requirements (SSAR), OTS would have no objection to the approval of these applications.

Applicant Response: *The SSAR compliance information has been provided on Sheet 4 of the CDP.*

VIRGINIA DEPARTMENT OF TRANSPORTATION (RASHID SIRAJ, 11/16/2009)

1. Our previous Comment 1 has not been satisfactorily addressed. As stated all related design features including area types, connectivity index with computations, schematics, etc, should be provided on the plan. In addition projected traffic volume (ADT) at every intersection should be shown to verify the required width of typical section. (Preferably a road matrix showing name of roads, ADTs, widths of right-of-way and pavement.)

Applicant Response: *Since the proposed roads do not have names, the requested information has been provided on each road segment shown on Sheet 4 of the CDP rather than in a matrix.*

2. Our previous Comment 2 has not been satisfactorily addressed. The "Determination of Compliance" provided with the referral may be adequate in-lieu of the regular Chapter 527 Traffic Impact Analysis (TIA). However, previously accepted TIA along with the (agency) approval letter should also be submitted for documentation.

Applicant Response: *The previously accepted TIA was submitted to VDOT on January 22, 2009. The letter to VDOT accompanying this submittal is attached to this letter.*

**LOUDOUN COUNTY DEPARTMENT OF FIRE, RESCUE AND EMERGENCY
MANAGEMENT (MARIA TAYLOR, 12/3/2009)**

Thank you for the opportunity to review the applicant's response to first referral comments dated September 24, 2009 regarding the above captioned applications. The fire-Rescue Planning Staff has no further comments.

Applicant Response: *The comment is acknowledged.*

LOUDOUN WATER (JULIE ATWELL, 12/3/2009)

Loudoun Water has reviewed the referenced application and offers no objection to its approval. Public water and sanitary sewer service would be contingent upon the developer's compliance with Loudoun Water's Statement of Policy; Rates, Rules and Regulations; and Design Standards.

Applicant Response: *The comment is acknowledged.*

**LOUDOUN COUNTY PARKS, RECREATION AND COMMUNITY SERVICES (BRIAN
FULLER, 11/24/2009)**

2. PRCS requests that the Applicant proffer signage within the "Future Public Passive Park" in Landbay C. This may include, but not be limited to, entrance signage, interpretive signage, and trail markers. The signage should meet PRCS standards at the time of installation.

Applicant Response: *The applicant is proffering a \$1,000 contribution to the County to install directional signage for the passive park.*

Issue Status: PRCS acknowledges the addition of Proffer 36 and appreciates the Applicant's contribution toward future park signage. However, Staff requests that the 2nd sentence of Proffer 36 be revised to state the contribution shall be paid at time of parkland dedication at County request, per Proffer 12.

Applicant Response: *Proffer 35 (formerly proffer 36) has been revised as recommended by staff.*

3. PRCS requests a revised entrance to Landbay C, to include a trailhead with vehicular parking in the vicinity of the future Loudoun Water Pump Station.

Applicant Response: *Since this is a single family residential community, it was never intended that Belmont Glen Village would provide vehicular access for members of the public to access the Goose Creek passive linear park. Rather, vehicular traffic could park and access the linear park from the Tillet park site to the south of the commercial portion of Goose Creek Village to the north. Pedestrian access is being provided to the general public from the Belmont Ridge Road trail via the access trail provided on the existing gravel roadway along the south side of Belmont Glen Village property to the pedestrian sidewalk network within Belmont Glen Village to the break between lots 184 and 185. The applicant will grant a public access to the County-owned parkland over the access driveway being constructed to access the stormwater management pond for maintenance.*

Issue Status: Staff notes the labels on the CDP and the revision of Proffer 16. However, please revise the 1st sentence, line 5, to refer to Proffer 11 above, not Proffer 12.

Furthermore, please revise the Proffer to state that a public access easement will be placed over the trail at the time of public parkland dedication, per (revised) Proffer 12.

Applicant Response: *Proffer 16 has been revised as recommended by staff.*

CONCLUSION:

Should the Applicant adequately revise the Proffers and resolve Comments 2 and 3, PRCS would not be opposed to approval of the application as presented.

Applicant Response: *The proffers have been revised in accordance with staff's recommendations.*

THE GOOSE CREEK SCENIC RIVER ADVISORY COMMITTEE (HELEN CASEY, 11/16/2009)

In response to your request for comments on this proposal, we feel that the applicant has complied with all the requests our Committee has made in respect to the protection of Goose Creek and its 300' scenic easement along the length of the property abutting the creek. We appreciate also their moving two lots out of the easement area.

Applicant Response: *The comment is acknowledged.*

Sincerely,

WALSH, COLUCCI, LUBELEY, EMRICH &
WALSH, P.C.

Christine Gleckner, AICP
Land Use Planner

Enclosure

cc: James Mobley, Bayshire, LLC
Rich Brittingham, Dewberry
Dan Lucey, WSSI
Kevin Sitzman, Wells and Associates